

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2001-827

November 13, 2002

PUBLIC UTILITIES COMMISSION  
Investigation of the Rate Design of  
Community Service Telephone Company

ORDER REJECTING  
STIPULATION

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

---

**I. SUMMARY**

In this Order, we reject a stipulation between Community Service Telephone Company (CST) and the Public Advocate contained in a joint letter filed on September 18, 2002. The Stipulation addresses rate design and revenue requirement issues.

We reject the Stipulation primarily because it fails to address the rate design issues for CST on a comprehensive basis. The Stipulation also contains an agreement concerning an additional rate design issue: it proposes increases to local exchange service rates for business customers that are less than those proposed for residential customers. We cannot accept the agreement concerning the balance between business and residential rates without additional supporting information. Finally, the Stipulation describes two alternatives the Commission could follow with regard to whether to conduct a revenue requirement proceeding in connection with the proposed rate design changes. We decide at this time that we will not conduct a revenue requirement proceeding in connection with rate design changes that may occur in this docket, but we remain open to a showing that it is necessary to conduct one depending on circumstances described below.

**II. STANDARD FOR REVIEW OF STIPULATIONS**

To accept a stipulation the Commission must find that:

1. the parties joining the stipulation represent a sufficiently broad spectrum of interests that the Commission can be sure that there is no appearance or reality of disenfranchisement;
2. the process that led to the stipulation was fair to all parties; and
3. the stipulated result is reasonable and is not contrary to legislative mandates.

*See Central Maine Power Company, Proposed Increase in Rates, Docket No. 92-345(II), Detailed Opinion and Subsidiary Findings (Me. P.U.C. Jan. 10, 1995), and*

*Maine Public Service Company, Proposed Increase in Rates (Rate Design)*, Docket No. 95-052, Order (Me. P.U.C. June 26, 1996). We have also recognized that we have an obligation to ensure that the overall stipulated result is in the public interest. See *Northern Utilities, Inc., Proposed Environmental Response Cost Recovery*, Docket No. 96-678, Order Approving Stipulation (Me. P.U.C. April 28, 1997). For the most important issue in this case (the proposed adjustments to local exchange and access rates), we conclude that the third criteria was not satisfied because the Stipulation does not adequately address the Company's longer-term obligations under 35-A M.R.S.A. § 7101-B.

The Stipulation before us was entered between the Company and the OPA. In past cases, we have found that these two entities, which often offer opposite views in the ratemaking process, constitute a sufficiently broad spectrum of interests to satisfy the first criterion. See *Public Utilities Commission, Investigation of Stranded Cost Recovery, Transmission and Distribution Utility Revenue Requirements and Rate Design of Bangor Hydro-Electric Company (Phase II)*, Docket No. 97-596, Order at 6 (Feb. 29, 2000) and *Maine Public Utilities Commission, Investigation of Retail Electric Transmission Services and Jurisdictional Issues*, Docket No. 99-185, Order Approving Stipulation (Maine Public Service Company) at 3 (Aug. 11, 2000).

We find that this Stipulation fails to meet the third criterion for the acceptance of stipulations. As discussed in greater detail below, while the Stipulation proposes that the Company will comply, by February of 2003, with the legislative mandate of 35-A M.R.S.A. § 7101-B (as it now exists to reduce access rates to interstate rates that became effective in 2000), it will leave the Company out of compliance between now and February and fails to address the mandate imposed by the statute that will occur in May of 2003.<sup>1</sup>

### III. DISCUSSION

#### A. Access and Local Exchange Service Rates

Under Step 1 of the rate design proposed by CST and the Public Advocate, the Company would have increased local exchange rates and reduced access rates on November 1, 2002. The proposed access rate reduction would have

---

<sup>1</sup> Because we find that the Stipulation fails to meet the third criterion, it is not necessary to reach the question of whether it meets the first and second criteria. We note, however, that the one important interest, that of the interexchange carriers (IXCs) that pay intrastate access rates, is not directly represented. Lower access rates have and should continue to result in lower retail toll rates, and the Public Advocate does represent the interests of retail customers who pay retail toll rates as well as rates for local exchange service.

brought the Company half way from its present levels to its interstate access rates that became effective in July of 2001. The increase to local rates would offset the revenue loss from the access rates, i.e., it would be a revenue neutral. Under Step 2 as proposed by the Company, the Company on February 1, 2003 would reduce its intrastate access rates the rest of the way to its interstate rates that became effective in July of 2001 and implement another revenue-neutral increase in local rates. Step 2 as proposed by the Public Advocate is similar to the Company's Step 2, but would interpose a rate proceeding that the Public Advocate apparently believes would be completed by February 1, 2003 for the further decrease in access rates and a further adjustment (not necessarily revenue-neutral) to local rates. We discuss whether there should be a rate proceeding in Part III(C) below.

1. General Principles

a. The Access Parity Statute, 35-A M.R.S.A. § 7101-B

CST's present access rates do not comply with 35-A M.R.S.A. § 7101-B, the access parity statute. That section states that the Commission "by May 30, 1999 shall establish and every 2 years reestablish intrastate access rates that are less than or equal to interstate access rates established by the Federal Communications Commission."

For several years, a number of Maine's ITCs, including CST, have maintained intrastate access rates that exceed their interstate rates. The interstate rates for all of Maine's ITCs are established by tariffs filed with the FCC by the National Exchange Carriers Association (NECA), to which all of Maine's ITCs belong.<sup>2</sup>

Allowing CST and some other companies to maintain access rates that exceeded those required by the statute has served as an informal substitute for a universal service fund which would provide support to local exchange carriers with high costs. Subsequent to enactment of the access parity statute, the Legislature

---

<sup>2</sup> The remaining ITCs in May of 2001 established access rates equal to the interstate rates established by NECA in July of 1999. As of that date (the first of the two-year "reestablishment" dates, NECA 2000 rates were available and, under the statute, this group of ITCs should have implemented 2000 rates rather than 1999 rates, but rate case stipulations that we approved for these companies required them only to implement the 1999 rates. This group of companies entered stipulations during 2000 and 2001 under which they agreed to "stay-out," i.e., refrain from filing a rate case until a specified date.

In March of 2003, when the Maine Universal Service Fund becomes operational, these companies must reset their access rates to be no higher than the interstate rates implemented by NECA in July of 2000. In May of 2003, these companies must reset their access rates to be no higher than 2002 NECA rates.

authorized the Commission to implement a universal service fund (USF). 35-A M.R.S.A. § 7104. We have enacted a Rule, Chapter 288, and expect that the administrator for the Fund will begin collecting money for the Fund in the first quarter of 2003 and begin making payments to those rural local exchange carriers that qualify for high cost universal service funding in the second quarter of 2003.<sup>3</sup>

Once the USF becomes operative, there is no longer any justification for allowing a local exchange carrier to maintain intrastate access rates that exceed that carrier's interstate access rates. We are aware that Chapter 280, § 8(J) permitted a carrier, for the May 30, 1999 filing only, to file intrastate access rates "that mirror the structure and level of interstate access rates (or interstate NECA-pool disbursements)." If a carrier chose the "disbursement" alternative, it could establish intrastate access rates that would produce the same revenue from interstate access payers (interexchange carriers) that it received in interstate payments from NECA.

NECA is a pooling arrangement wherein local exchange carriers pay in what they collect in interstate access revenues (at the national NECA rate) and are paid according to their own interstate costs.<sup>4</sup> Thus, a "high cost" company typically will receive more revenues from NECA than it pays in, sometimes substantially more. If a high cost company sets its intrastate access rates to recover the same amount of revenue that it receives from NECA (NECA interstate disbursements), it follows that its intrastate rates will exceed its interstate rates, sometimes substantially.

While the provision in the Rule that allowed the use of disbursements as the measure of access rates had practical value (and we note that no party opposed the provision), there is no suggestion in the Rule, the Order Adopting Rule,<sup>6</sup> and in the *Interim Order*<sup>7</sup> subsequently issued by the Commission that this departure from the clear language of the statute would be permitted indefinitely. On the contrary, the *Interim Order* also made clear that allowing ITCs to set access rates at disbursement levels was permissible only for the May 1999 filing, and that it was the

---

<sup>3</sup> In Maine, all ITCs are rural local exchange carriers.

<sup>4</sup> These costs are actual, for those companies that conduct an annual cost study. Carriers that do not do so may opt to be paid under an "average cost" schedule.

<sup>6</sup> *Public Utilities Commission, Proposed Amendment of Chapter 280 to Achieve Parity with interstate Access Rates By May 30, 1999*, Docket No. 97-319, Order Adopting Rule (December 3, 1997).

<sup>7</sup> *Maine Public Utilities Commission, Investigation into Rates Pursuant to 35-A M.R.S.A. § 7101-B*, Docket Nos. 98-891 et al., Interim Order (January 28, 1999).

Commission's objective to make sure that the ITCs' intrastate access *rates* were no higher than their actual interstate rates by the time of the next required reduction in May of 2001.

We believe that there is no legal justification for continuing to allow access rates to be set at disbursement levels. The access parity statute is clear on its face. It says the Commission must establish "intrastate access *rates* that are less than or equal to interstate access *rates*." (emphases added). It does *not* say that intrastate access rates must be less than or equal to "interstate access rates that could have been approved by the FCC, whether filed and approved or not."<sup>8</sup> We therefore will not permit any ITC to maintain rates that exceed that ITC's interstate access rates. On or before the date that the Maine Universal Service Fund is ready to begin to make payments to any Maine ITC, all ITCs must implement intrastate access rates that comply with the statute as we have interpreted it above. In a pending rate proceeding for Unitel, we stated:

Once the Fund is operational, we will not permit any ILEC to maintain intrastate access rates that exceed its interstate (NECA 5) levels. A rural ILEC that cannot meet its revenue requirement with intrastate access rates that are equal to its interstate rates and local basic rates that comply with the requirement of Chapter 288 may apply for USF. We will not permit rural ILECs to use access rates that exceed interstate levels as a *de facto* USF and thereby avoid raising basic local rates. A rural ILEC may, of course, maintain whatever local rates it wants, as long as it reduces its intrastate access rates to NECA 5 levels and foregoes universal service funding.

*Unitel, Proposed Rate Change*, Docket No. 2000-813, Order Rejecting Second Stipulation (October 1, 2001) at 5.

Because of the dates in the access parity statute (May 30, 1999 and every two years thereafter) and the time lags due to the fact NECA generally changes its access rates only in July of each year, it is acceptable to interpret the statute to require companies that have not yet implemented intrastate rates equal to or less than their interstate rates (CST, Unitel, Mid-Maine, Lincolnville, Tidewater, and the TDS companies) to implement rates no later than April 1, 2003 that are no higher than

---

<sup>8</sup> No Maine ITC has ever actually attempted to withdraw from NECA and file its own access rates (based on its own costs) with the FCC. There would be no motive for them to do so for interstate purposes: the ITC would receive approximately the same amount of revenue whether from NECA disbursements or from direct access revenues, because both would be based on the ITC's costs. The only reason a Maine ITC would have to file its own individual *interstate* rates would be to counteract the effect of a state statute.

the 2000 NECA rates. By May 30, 2003, *all* Maine LECs must implement intrastate access rates that are no higher than the interstate rates that are in effect at *that* time (i.e. May 2003). We expect those will be rates that became effective in July 2002, unless they are superseded prior to May 30, 2003. To the extent, on either of those dates, that a carrier cannot meet its revenue requirement from access revenues at the rates required by the statute and from its local service and other revenues, it must either request universal service funding or risk not meeting its revenue requirement.

b. Universal Service Funding

Universal service funding for LECs with “high costs” is a subsidy from other telecommunications carriers in the state (and their customers) to the rural local exchange carriers (and their customers) that have established that they cannot meet their costs without the subsidy. The informal universal service funding described above (access rates that exceed levels permitted by the statute) is no less of a subsidy, but there are three important differences. First, the subsidy is being paid by interexchange carriers only, rather than by the broader base of carriers that must pay into the Universal Service Fund. Second, there has never been a requirement that ITCs that maintained excess access rates must establish a need for the subsidy. Third, although it is likely that most recipient ITCs could justify some portion of their informal subsidies as support for their high costs, a significant portion of the informal subsidies to the ITCs has gone beyond that purpose and has served to maintain local exchange rates that have been markedly lower than the rates paid by the customers (Verizon’s and other IXCs’) that have paid most of the subsidy.

Section 3(B) of the USF Rule requires a rural LEC that receives a subsidy to establish, and the customers of that company to pay, local exchange rates that are at least as high as those paid by customers of Verizon. In the Chapter 288 rulemaking, we stated that a USF recipient:

must do all it can through its own rate structure to achieve a reasonable level of revenues to meet its revenue requirement (including a reasonable return on investment) prior to receiving support from the MUSF. ...before we provide any of the companies with USF support (much of which ultimately must come from ratepayers of other carriers), the companies must take all reasonable measures to meet their revenue requirement internally.

*MPUC, State Universal Service Fund for Local Exchange Carriers (Chapter 288), Docket No. 2001-230, Order Adopting Rule (July 18, 2001) at 6.*

As a matter of public policy, the Legislature and this Commission have determined that it is appropriate for carriers (and their customers)

---

from areas that have lower than average costs to provide a subsidy to those carriers (and their customers) that are located in areas with higher than average costs. The Legislature did not mandate, and, in Chapter 288, we expressly decided that it is not appropriate, that subsidizing customers must pay a further subsidy that allows ITC customers to enjoy local rates that are much lower than the rates paid by the subsidizing customers. Verizon customers and the customers of the ITCs receive local service that is equivalent in quality. While some (not all) ITC customers have calling areas that are more limited than those of many (not all) Verizon customers, if we adopt some of the proposed changes in the BSCA rule contained in our present rulemaking (Docket No. 2001-865), greater equivalency will result.<sup>10</sup>

The principle that subsidizing customers should not subsidize local rates that are lower than their own is not dependent on the existence of the access parity statute or on the legislative authorization to implement a formal universal service fund. Even if it were lawful to continue an informal universal service subsidy for high costs by allowing high cost companies to maintain higher access rates, there is no justification for also requiring those carriers (and, indirectly, their customers) who would pay those higher access rates to subsidize local service rates that are artificially low.

## 2. Decision; Practical Considerations

We do not decide that the Stipulation proposed by CST and the Public Advocate is unlawful under the access parity statute. Indeed, it is probable that it would comply with the statute, as interpreted above to require implementation of intrastate rates that do not exceed 2000 NECA rates by April 1, 2003.

We reject the Stipulation because it addresses only a relatively small portion of the issue concerning the relationship between access rates and local rates, and ignores the larger issue, nearly imminent, of the need, by May 30, 2003, to implement intrastate access rates that do not exceed 2002 NECA rates, along with local exchange rates that, in conjunction with the access rates (and, if necessary, USF), will allow the company to meet its revenue requirement. The Stipulation proposes only to implement intrastate access rates that are equal to the interstate rates that became effective in July of 2001. Those rates had already been superseded by the time the Stipulation was filed. The interstate access rates that the FCC approved for effect in July of 2002 were substantially lower.

Under the proposal contained in the Stipulation, access rates (based on 2001 NECA rates) after the proposed February increase would be \$0.04075

---

<sup>10</sup> The USF Rule, section 3(B)(4) specifies that the USF recipient's rates must be no less than those for "Verizon exchanges that have Basic Service Calling Areas of a similar size."

per minute following the two-step increase to local rates. Based on information provided by the Company to the advisory staff, the November and February local rate increases proposed by the Stipulation would together, on average, add about \$3 per line.<sup>11</sup>

For the further access rate adjustment required by May 30, 2003 (2002 NECA rates), the Company will have to reduce its average intrastate access rates to \$0.01940. To recover the revenue deficiency that will result from that decrease (assuming revenue neutrality)<sup>12</sup>, the Company states that it will need an additional average per-line increase to local rates of approximately \$6. The total average per-line increase that will be necessary by May 30, 2003 is about \$9 (\$3 to reach 2001 NECA levels that was proposed in the Stipulation plus \$6). CST's current average local rate (combined business and residential) is about \$9 per line.

In addition to local rate increases that will be necessary to offset access rate reductions, CST has provided information in our ongoing rulemaking in Docket No. 2001-865 to amend the Basic Service Calling Area (BSCA) Rule (Chapter 204), indicating that CST's local rates will have to increase on average by about \$2.15 if the Commission orders LECs to add all contiguous exchanges to existing BSCAs.<sup>13</sup>

CST has stated that it does not expect that it will have to apply for universal service funding. The USF rule requires that recipients must establish access rates that comply with 35-A M.R.S.A. § 7101-B and must implement local exchange service rates that are "no less than those of Verizon exchanges that have Basic Service Calling Areas of a similar size." If an ITC lowers its access rates to 2002 NECA levels and is able to meet its revenue requirement with local rates that are less than those of Verizon (for similar calling areas), it does not need and is not eligible for USF. Based on the numbers described above, CST will have to increase its rates (assuming revenue

---

<sup>11</sup> There is considerable variance around this average depending on the class of service and a customer's BSCA option. Residential economy rates would increase by about \$4.00; premium residential rates would increase by between \$1.37 and 3.34. Business rates would increase by \$0.94 (economy) and \$0.94-1.64 (premium).

<sup>12</sup> We discuss the issue of whether future local rate increases will be made on a revenue neutral basis in Part III(C).

<sup>13</sup> We have used CST's estimate for revenue loss based on access rates after May 30, 2003 (which results in a lower revenue loss) because we do not expect that BSCA changes will be implemented prior to that date. We have not reviewed CST's information or estimates in great detail. Generally, when additional exchanges are added to a BSCA, the calculation of access or toll revenue loss is not difficult. It is far more difficult to calculate the local rate increases that are necessary because it is so difficult to estimate the subscription levels for the various calling options. CST's estimate also includes implementation and equipment costs that we would have to review.

neutrality) to an average (business and residential combined) of about \$18 to offset the access rate reductions that will be necessary during the next few months and to an average of about \$20.15 if contiguous exchanges are added to the Company's existing BSCAs. The Staff has calculated the combined business-residential average local rate for Verizon to be about \$21. It appears, therefore, that the Company's projection that it will not need USF is probably correct.<sup>14</sup>

Nevertheless, increasing local rates on an overall basis from about \$9 to \$18 (or \$20.15) over a 7 month period may be a substantial rate shock to CST customers. We therefore order the parties, either individually or together, to file a revised plan (or plans) that take into account the need to reduce access rates at least to the 2000 NECA level as soon as possible, to the 2002 NECA level by May 30, 2003, and to phase in local rates to the levels necessary to achieve its revenue requirement (without temporary USF) over a period that will mitigate rate shock. As discussed above, CST has indicated that it will not need USF. However, that prediction must be based either on an assumption that CST would lower its access rates to 2002 NECA levels and increase its local rates to the levels described above by May 30, 2003 (thereby potentially causing rate shock) or that the Commission would permit it for some period of time to receive informal USF (access rates in excess of 2002 NECA levels) after that date, thereby mitigating rate shock.

If CST is to comply with the requirement of 35-A M.R.S.A. § 7101-B as described above and also avoid imposing rate increases of \$9 or more on its customers over only a 7-month period, it seems highly likely that it will have to receive USF temporarily until it is able to phase in the necessary rate increases to local rates. We are not encouraging the Company to take up to three years for a phase-in (the maximum amount of time that we may allow under Chapter 288 for an ITC that will receive permanent USF). Nevertheless, we encourage the parties to propose a comprehensive plan that will meet the legal requirements described above, will allow CST to meet its revenue requirement, and will phase in the necessary increases to local rates over a reasonable period of time that will avoid undue rate shock to customers.

The parties shall file a joint plan (or separate plans) within three weeks following this Order. The plan must include a first step that lowers access rates to at least the 2000 NECA level as soon as possible; we see no reason why CST should

---

<sup>14</sup> Chapter 288, section 3(C)(1) states "The Commission may allow deviations from Verizon local exchange rates in individual exchanges if it is desirable to establish or preserve a rate design for a rural LEC ... provided that, on an overall basis, the carrier's rates are no less than those of Verizon." Because of this provision, it is appropriate to compare an ITC's local rates and Verizon's local rates on an overall basis. Nevertheless, if an ITC establishes rates that are equal overall to Verizon rates for the purpose of complying with the Rule, and some of its individual rates are lower than Verizon's rates for comparable classes and calling areas, it necessarily follows that some other rates will have to be higher than Verizon's.

continue to receive informal USF any longer than necessary.<sup>15</sup> However, beyond this minimum required reduction, the first step should be integrated with the overall plan. The plan should propose steps that are reasonably equal and that spread the steps over reasonable time spans. In order to make local rate increase steps approximately equal, it may be necessary for the first step to reduce access rates by more than the minimum amount. It is not absolutely necessary to propose a second step local rate increase for May 30, 2003, even though CST must reduce its access rates to 2002 NECA rates by that date, because, as discussed above, CST may receive temporary USF until such time as the second (or, if necessary, third) step. If the plan includes a period during which CST will receive temporary USF, any local rate changes should occur on the first day of a quarter in order to minimize the need for the USF Administrator to pro-rate Fund requirements.

We also note that the Stipulation did not include any adjustments of rates for optional calling features or other optional services. While not directly applicable to CST until it needs temporary USF, section 3(B) of Chapter 288 requires companies receiving USF to maximize revenues from those sources. We believe this is sound policy for any ITC that must raise local rates, even if it will not receive USF. If CST's rates for these services are significantly less than those for LECs which have higher rates (e.g., Verizon), it should either propose increases (so that its local rate increases are minimized) or provide information demonstrating that market conditions are different in its service area than in the service areas of other LECs that have higher optional service rates.

**B. Different Local Rate Increases for Business and Residential Customers**

The Stipulation proposed increases for business customers that were smaller both absolutely and as percentages than those that it proposed for residential customers. The advisory staff asked the Company to provide justification for this imbalance. The Company filed a letter on October 10, 2002 that made two arguments. First, it claimed that costs for serving business customers are not substantially different from those for serving residential customers, so that existing rate differentials are not justified. (In most exchanges, business rates are approximately double the residential rates.) Second, it claimed that there is considerable competition for business customers, primarily in the form of cell phone service, and that cellular companies have "creative pricing plans."

---

<sup>15</sup> By contrast, the other companies that have never lowered their intrastate access rates to NECA levels have all indicated that they will need USF. If we actually required those companies to reduce their access rates to the 2000 NECA level immediately, there would be no formal USF available at this time to replace the informal USF (excess access rate revenues) they are now receiving.

The letter does not contain sufficient support for the latter argument. CST correctly states that rates for wireless carriers are the same for business and residential customers. CST may be implying, therefore, that its business customers are more susceptible to wireless competition because CST's business rate is closer to the wireless rate than is CST's residential rate. On the other hand, it might be expected that most businesses have a greater need than residential customers for the higher transmission quality usually provided by wireline service. The primary deficiency of the letter is its failure to provide any hard data in support of its apparent conclusion that business customers are more likely to substitute wireless service for CST service than are residential customers. CST has provided no information on whether it has experienced business (or residential) line losses or whether its gains have declined or failed to keep up with changes in the number of households or businesses in its service areas.<sup>16</sup> If CST pursues this matter, it should provide such data, separately for residential and business lines. CST also provided no information concerning wireless coverage and the quality of that coverage; it should do so both for areas that contain concentrations of business customers and for other portions of its service area.

As noted above, the USF rule (should it be necessary for CST to request USF) allows ITCs to have some local rates at less than Verizon levels if other rates exceed Verizon's levels; the overall rates (i.e., the average revenue per line) must be at least the same as for Verizon. At present, the relative disparity between Verizon's business and residential rates (approximately 2.25 to 1) is greater than the disparity for CST (approximately 1.8:1 for premium rates) and most other ITCs. An attempt by an ITC to reduce its business-residential disparity could result in the need for residential rates that exceed Verizon's residential rates by a greater amount than if the ITC's business-residential rate balance were similar to Verizon's. We do not suggest that Verizon's balance is somehow "correct" and the ITCs' balances are somehow "less correct."<sup>17</sup> Rather, we point out this problem to emphasize the importance of a showing by CST (or other ITCs) to justify shifting the business-residential balance further away from Verizon's balance.

---

<sup>16</sup> Statewide, Maine has lower penetration by wireless carriers than the national average (although Maine's rate is growing more rapidly). *FCC, 7th Annual CMRS Competition Report*, Appendix C, Table 2 (subscriberhip) <http://wireless.fcc.gov/cmrs-crforum.html>; *FCC, Telephone Penetration Report*, Table 6 (Total Number of Households) (April 2, 2002) <http://www.fcc.gov/wcb/iatd/lec.html>. In 2001, Maine showed wireline gains (albeit at a slower rate than in previous years), while nationally, there were wireline losses. *NECA 2002 Submission of 2001 Study Results to the FCC, Five Year Trending Report* (Tab 10, line B)(October 1, 2002).

<sup>17</sup> Indeed, Verizon, with the Commission's approval, has gradually attempted to reduce its own disparity. For example, recent increases to basic rates have been at the same absolute amount for both classes.

C. Whether to Conduct a Revenue Requirement Proceeding

The Stipulation agrees to disagree on this point. It contains two alternatives. The Public Advocate's alternative requests the Commission to order a rate case to examine the Company's revenues and revenue requirement on the ground that they should be examined prior to approving the second of the two local rate increases proposed in the Stipulation. The Company's alternative opposes a rate investigation at this time.

The issue in the Stipulation is narrowly framed: should the Commission order a revenue requirement proceeding prior to the second step (February 1, 2003) of the two-step increase to local rates that was proposed in the Stipulation? Our rejection of the proposed two-step increase makes the narrowly-framed issue moot. However, because the Company (either separately or in conjunction with the Public Advocate) must make a further filing that proposes increases to local rates, we will address the issue in a broader context.

Both the Company and Public Advocate filed memoranda in support of their positions. At this point, the Public Advocate has made no showing that a rate investigation is necessary. It has provided no information indicating that CST is overearning or any other reason to investigate its revenue requirement at this time or in the near future.

As discussed above, CST has stated that it will not need USF, at least on a permanent basis. For a company that does apply for USF, the Rule states that no rate case is necessary for the initial determination of need if a rate case was completed within six months prior to the adoption of the Rule. Chapter 288, § 3(B)(1). Rate cases for CST and the companies that will need USF at the time the Fund is operational were completed within that time frame. CST's rate case (Docket No. 2001-249) was completed in November of 2001 and was the most recently completed of this group of cases. The present rate design investigation for CST is itself a spin-off from that case.

It is difficult to argue that the reasons for requiring a rate case for a company that is *not* seeking USF are more compelling than those for a company that is seeking USF. USF is an express subsidy paid by all other carriers operating in the state and their customers.

Nevertheless, we do not rule out a rate case for any utility if a person, including the Public Advocate, provides information indicating that such an investigation may show that the utility's rates are (or will be) unreasonable. If necessary, upon request of the Public Advocate, we will consider adopting procedures that will allow the Public Advocate to obtain the kind of preliminary information (beyond the Company's annual report filed with the Commission) that it may need from CST to make the necessary showing. Absent a showing that a rate case is necessary, we will not require

a revenue requirement proceeding for CST for it to justify temporary payments from the USF during any phase-in of higher local rates.

We have ordered the Company (or the parties, jointly or separately) to file plans for the implementation of the access rates required by this Order and local exchange rates that will allow the Company to meet its revenue requirement. These plans must be filed within three weeks. The Public Advocate would not be able to make the kind of showing suggested above within that amount of time. We therefore recommend that any plan the Public Advocate joins in or files be on a revenue neutral basis for the first step. However, as stated in the ordering paragraphs, the Public Advocate may file a proposal for how and when it would make a preliminary showing that a revenue requirement proceeding is necessary. If we ultimately agree that we should conduct a rate investigation, any results could be applied to later stages of any phase-in of higher local rates; it would not be necessary or even feasible to apply them to the first stage.

Accordingly, we

1. REJECT the Stipulation between Community Service Telephone Company and the Public Advocate filed on September 18, 2002; and

2. ORDER Community Service Telephone Company (separately or in conjunction with the Public Advocate), within 3 weeks after this Order, to file a plan:

a. for the reduction of its intrastate access rates as rapidly as possible to the level of the Company's interstate access rates that became effective in July or August of 2000; and, by May 30, 2003, to the level of the Company's interstate access rates that became effective in July or August of 2002;

b. for the implementation of rates for local exchange service that will allow the Company to implement the access rates required by paragraph 2(a) and that ultimately will allow the Company to meet the revenue requirement established in its most recent rate case (with increases to local rates producing no more revenue than will be lost due to reductions in access rates), but without causing undue rate shock to its local exchange customers, and that otherwise is consistent with the directives in this Order; if necessary, the plan should include a provision for the Company to receive universal service funding on a temporary basis; if the plan includes a proposal to increase business rate at percentages that are different from the percentages applicable to residential customers, the plan shall include justification consistent with the discussion in this Order; and

c. for rates for optional calling services that maximize the revenues from the sale of those services; and

3. ALLOW the Public Advocate, if it does not join in a joint plan filed by the Company and the Public Advocate, to file an independent plan within three weeks following the date of this Order that will meet the requirements of Ordering Paragraph 2; if the Public Advocate proposes as part of such a plan that the Commission conduct a rate investigation, the Public Advocate shall provide information concerning how it will obtain information necessary to make a showing that such a case is necessary and when it will present such information.

Dated at Augusta, Maine, this 13<sup>th</sup> day of November, 2002.

BY ORDER OF THE COMMISSION

---

Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Diamond

COMMISSIONERS ABSENT:          Nugent

**NOTICE OF RIGHTS TO REVIEW OR APPEAL**

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.